

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8055 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

DIVYAKANT H MEHTA

Versus

STATE OF GUJARAT

Appearance:

MR BN PATEL for Petitioner

MR RJ OZA for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 16/07/1999

ORAL JUDGEMENT

By this petition under Art. 226 of the Constitution of India, only question arise for consideration and determination is whether the resolution of the Government dtd. 15.10.84, will be applicable to the case of the petitioner who has claimed pension and other retirements benefits on his voluntary retirement from his service as

professor from 15.6.84 or not ?

Petitiner was serving as professor in different colleges of State of Gujarat and later on joined as principal of Navjivan College, Dahod. upon his voluntary retirement, the petitioner has applied for pensionary and other benefits and the relevant papers were transmitted to Navjivan College, Dahod, to respondent No.2, through Navjivan Science College, Dahod to the Director of Higher Education, Gujarat State.

Petitioner has inter alia also contended that an amount of Rs.22,168.60Ps. is received by him as contribution of the employer in the contributory provident fund scheme. C.P.F. was refunded by depositing in the treasury by challan on 29.5.86 so as to comply with a query raised by the respondent no.2.

Subsequently, the petitiner was granted adhoc monthly pension, pending the finalisation of the pension case of the petitioner. But unfortunately, the petitioner received a copy of letter dtd. 30.12.88, from the Respondent Authority, intimating about the dicontinuation of the adhoc pension, as the petitioner's being a case of voluntary retirement, and it was not permissible to sanction the adhoc pension. He was asked to deposit the amount of adhoc pension received by him being an amount of Rs.52,370.05Ps. and provisional gratuity being Rs.17,000/- by virtue of the letter dtd. 10.1.1989 as annexed "E". Since he was denied the retirements benefits, by filing this petition, the petitioner obtained the interim relief against the recovery of the adhoc pension and the gratuity as stated hereinabove. thought it was pressurisely done in the case of Dr. VR Joshi, who had retired on or about 1.7.85 by voluntary retirement as professor in Post Graduate Department of S.P. University and also in view of the govt. resolution dtd. 15.10.84 annexure "H".

After having heard the ld. advocate Mr. Patel and Ld. Asstt. Govt. Pleader, Mr. Bukhari, this court has not hesitation in finding that the benefits accruing by the Government resolution dtd. 15.10.84, are available in this case and the petitioner is covered by the same. As a facts of this case, and in the case of Dr. Joshi are identical one and apart from the decision of this Court, rendered in SCA No.305/88, dtd. 13.2.99 and SCA No.4587/99, dtd. 16.7.99 are attracted and petitioner is entitled to pensionary benefits in terms of the Govt. Resolution dtd. 15.10.84 with interest at the rate of 15% on the amount of the delayed payment by the concerned

authority.

In the instance case, the respondents are directed to carry out the computation within a period of 8 weeks from the date of receipt of the writ from this Court and to make necessary arrangement within a period of 8 weeks thereafter. it is really very unfortunate circumstances that the person who had retired 15 years before has yet not been paid his full and legitimate dues arising out of the Government Resolution dtd.15.10.84 in a circumstances where a policy of the government is that the amount of pension of the first month should be paid by cheque on the last date of superannuation is frequently proclaimed. It is therefore, earnestly hoped that the authority concerned looking to the peculiar case effect shall strictly adhere to the time frame. Accordingly this petition stands allowed. Rule is made absolute to that extent.

sanjay.